
(2014) 04 P&H CK 0222

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 11691-CAT of 2004(O&M)

Karnail Singh Soni

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 04-04-2014

Acts Referred:

Citation : (2014) 04 P&H CK 0222

Hon'ble Judges : Sanjay Kishan Kaul, C.J;Arun Palli, J

Bench : Division Bench

Advocate : I.S. Sidhu, Advocate for the Appellant; Puneet Jindal, Advocate for Respondents No. 1 and 2, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Arun Palli, J.—The petitioner joined as Commercial Apprentice in the grade of Rs. 550-750 (unrevised) revised to Rs. 1600-2660, on 28.07.1988. After completion of requisite training the petitioner was substantively appointed to the said post on 18.08.1990. Resultantly, he joined as Goods Supervisor. Respondents No. 3 and 4 had joined service as Goods Clerks on 22.03.1969 and 24.09.1974, respectively. There were two sources for recruitment to the post of Commercial Apprentice i.e., 75% by promotion and 25% by competitive examination. Out of 25% quota for direct recruits, 10% of the posts were to be filled out of the in-service candidates, who were graduates. Respondents No. 3 and 4 competed against 10% graduate quota for appointment as Commercial Apprentices in the grade of Rs. 455-700 in April, 1983. After completion of the requisite training, both the respondents No. 3 and 4 were appointed in the grade of Rs. 455-700 (revised to Rs. 1400-2300) on 13.11.1984 and 12.11.1984, respectively and their seniority was accordingly fixed. That by virtue of their appointment to the grade of Rs. 1400-2300, respondents No. 3 and 4 were further placed in the grade of Rs. 1600-2660 w.e.f. 11.04.1991 and 30.03.1991, respectively. On the basis of the memorandum of restructuring of 1987, respondents No. 3 and 4 were accorded the benefit of grade of Rs. 1600-2660 w.e.f. 15.05.1987. They

were further promoted as Chief Goods Supervisors (Rs. 2000-3200) w.e.f. 01.03.1993 vide order dated 28.09.1993.

2. It may be apposite to point out here, that the applicability and the true import of memorandum of 1987 (supra), was questioned in numerous Original Applications filed before the different Benches of the Central Administrative Tribunal (for short, "the Tribunal"). However, eventually, the matter was set at rest by Hon''ble the Supreme Court, vide its judgment rendered in Union of India (UOI) and Another Vs. M. Bhaskar and Others, . In brief, what the Hon''ble Court had observed in context of the memorandum of 1987, was that the same was completely misconstrued by the different Benches of the Tribunal. The said memorandum was really not on the basis of revision of the pay-scales of Traffic/Commercial Apprentices as had been understood by different Benches. As a result, the applicants were granted higher pay-scales and the scale of Rs. 1600-2660 was made admissible to all Traffic/Commercial Apprentices, irrespective of the grade of the posts held by them, which was a clear misunderstanding of the memorandum.

3. It may be pertinent to point out further, post-decision of Hon''ble the Supreme Court, the official respondents passed an order dated 14.01.1997 and withdrew the benefit of the grade of Rs. 1600-2660, extended to the private respondents w.e.f. 15.05.1987. As a result, respondents No. 3 and 4 were assigned seniority in the grade of Rs. 1600-2660 w.e.f. 30.03.1991 and 11.04.1991, respectively. Likewise, they were placed in the grade of Rs. 2000-3200 as Chief Goods Supervisors w.e.f. 01.03.1993 instead of 01.03.1995.

4. It has been the case of the petitioner that the provisional seniority lists issued by the official respondents, for the post of Goods Supervisor showed the petitioner at Sr. No. 6 and respondents No. 3 and 4 at Sr. Nos. 11 and 12, respectively. Likewise, the provisional seniority list of Chief Goods Clerks/Head Goods Clerks showed respondents No. 3 and 4 among others in their respective positions but below the petitioner and one Upkar Singh. The grievance of the petitioner is that the official respondents vide notice/letter dated 01.01.2001, granted scale of Rs. 455-700 (revised to Rs. 1400-2300) to respondents No. 3 and 4 w.e.f. 05.04.1983 i.e., from the date of their empanelment in the said grade as Commercial Apprentices instead of their actual date of appointment. Not just that, they were further accorded promotion in the grade of Rs. 1600-2660 (revised to Rs. 5000-9000) and Rs. 2000-3200 (revised to Rs. 6500-10500) from the dates set out in the said order, after refixation of their pay, which reads as thus:

5. It was further stated, that as a result of the revised dates of the proforma promotions accorded to respondents No. 3 and 4, they were placed in the seniority list of Chief Goods Supervisor at Sr. Nos. 2A and 2B, above the petitioner who was placed at Sr. No. 3. The petitioner represented against the notice/letter dated 01.01.2001 and prayed that the said decision whereby the private respondents were placed above him in the seniority list be reconsidered.

However, the same was rejected by the official respondents vide their response dated 05.03.2001, communicated to the petitioner vide letter dated 06.03.2001.

6. That being so, the petitioner approached the Tribunal vide O.A. No. 222-PB-2001. In a nutshell, the grievance of the petitioner before the Tribunal and before this Court is that respondents No. 3 and 4 were wrongly placed in the higher grades and that too from a date prior in a point of time to that of the petitioner. Thus, relegating the petitioner to a lower position in the seniority list vis-?-vis them. The action of the official respondents was stated to be against the decision of Hon"ble the Supreme Court (supra). Therefore, it was prayed that the decision of the official respondents dated 06.03.2001 in response to the representation of the petitioner and the notice/letter dated 01.01.2001 be quashed.

7. Although separate written statements were filed by the official respondents as well as by respondents No. 3 and 4 before the Tribunal, however, they, in unison, maintained, inter-alia, that the orders assailed by the petitioner, were indeed passed pursuant to the decision of the Principal Bench of the Tribunal, New Delhi, as, even the writ petition against the said decision was dismissed on 09.01.2001, by the Delhi High Court.

8. The Tribunal, on a consideration of the matter and the material on record arrived at a conclusion that the aspect in relation to the seniority assigned to respondents No. 3 and 4, from the date of their empanelment as Commercial Apprentices, could not be gone into as the said question had already been dealt with and adjudicated upon by the Principal Bench of the Tribunal, in a case filed by none other than private respondents. In fact, the decision by the Principal Bench dated 01.06.2000 was further predicated on another decision in the case of "Lal Bahadur Chauhan and others v. Union of India and others", decided by the Allahabad Bench. The decision of the Principal Bench of the Tribunal, dated 01.06.2000, rendered in O.A. filed by the private respondents and some others, was further challenged before the Delhi High Court but the said petition was also dismissed. Thus, it was observed that the Tribunal was bound by the said decision. Resultantly, the O.A. filed by the petitioner was dismissed vide order dated 10.07.2003.

9. Thus, this petition.

10. We have heard the counsel for the parties and perused the records.

11. There is no doubt that the petitioner was appointed as Commercial Apprentice by way of direct recruitment in the scale of Rs. 550-750 (revised to Rs. 1600-2660) in the year 1988 and on completion of requisite training, he was accorded substantive appointment w.e.f. 18.08.1990. Whereas, respondents No. 3 and 4, concededly, were in service since March, 1969 and September, 1974, when they competed for recruitment as Commercial Apprentices against 10% graduate quota. They qualified the said examination on 05.04.1983 and were given appointments, though in the grade of Rs. 455-700, on completion of their

training on 12.11.1984 and 13.11.1984. Thus, what needs to be noticed is that private respondents were appointed much prior to the petitioner, who got his appointment in August, 1990 only. The petitioner is a post-1987 appointee and by that time a modified scheme of recruitment of Traffic/Commercial Apprentices had been put in operation through Railway Board's letter dated 15.05.1987. The said letter postulates that further recruitments of the Apprentices would be made in the grade of Rs. 550-750 (revised to Rs. 1600-2660). However, no decision appears to have been taken for the Commercial Apprentices, who were already serving. Merely because the petitioner, who was appointed in a higher scale of pay i.e., Rs. 550-750 (revised to Rs. 1600-2660) could not be placed above the private respondents in the seniority list.

12. The grievance of the petitioner is that, the benefit assigned to the private respondents vide orders being assailed, was against the spirit of the judgment of Hon'ble the Supreme Court in Union of India and others v. M. Bhaskar and others (supra), also does not advance the case of the petitioner a bit. Post-decision of Hon'ble the Supreme Court dated 06.05.1996, the benefit of grade of Rs. 1600-2660 granted to private respondents w.e.f. 15.05.1987, was withdrawn by the official respondents vide order dated 14.01.1997, as referred to above.

13. Be that as it may. The aspect, which completely clinch the issue before us is that the private respondents had filed, O.A. No. 2106 of 1997, alongwith few others, claiming seniority from the date of their empanelment as Commercial Apprentices against 10% graduate quota w.e.f. 05.04.1983. The said O.A. was allowed by the Principal Bench of the Tribunal, New Delhi vide judgment dated 01.06.2000. As pointed out earlier, the reliance was placed by the Principal Bench of the Tribunal, upon another decision made by the Allahabad Bench in O.A. No. 1232 and 1376 of 1988. Still further, the said decision rendered by the Allahabad Bench (copy whereof was placed on record before the Tribunal as Annexure A10) was challenged before Hon'ble the Supreme Court in SLP, which was dismissed on 02.03.1994. Not just that, the decision of the Principal Bench of the Tribunal, was assailed by filing a civil writ petition before Delhi High Court, which was eventually dismissed by an order dated 06.02.2001, which reads as thus:

This petition is directed against the order June 01, 2000 passed by the Central Administrative Tribunal, Principal Bench, New Delhi. The short question which arose for consideration was as to whether the respondents were entitled to seniority from the date of employment or from a subsequent date when they finish their apprenticeship. The Tribunal relied upon the judgment of the Allahabad Bench in OA Nos. 1231 and 1376 of 1988 decided on November 25, 1992 by which the similarly situated persons were granted relief by that Bench. Therefore, the plea of the respondents was accepted as the Tribunal found no ground to deny them the same benefit as was accorded to the applicants by the Allahabad Bench. The Judgment of the Allahabad Bench was also upheld by the Supreme Court in Special Leave to Appeal (Civil) Nos. 5434-35/94 which was

dismissed in limine on March 2, 1994. The present petition, therefore, does not survive and is dismissed in limine.

14. Indisputably, the aforesaid orders i.e., 01.06.2000 and 06.02.2001 (supra), as these were never challenged any further or reversed, attained finality. Accordingly, the private respondents were accorded seniority w.e.f. their empanelment i.e., April 1983 and as a necessary consequence, their pay was refixed as narrated above. This to our mind, was nothing but due and required execution of the said two orders. That being the position, in our view, the grievance of the petitioner completely pales into insignificance and is misfounded.

15. We find no reasons, least plausible, to interfere in the decision rendered by the Tribunal.

16. The petition is, accordingly, dismissed being devoid of merit. Parties are left to bear their own costs.